

The rule of law, freedom, and prosperity

The conception of freedom under the law ... rests on the contention that when we obey laws, in the sense of general abstract rules laid down irrespective of their application to us, we are not subject to another man's will and are therefore free.

Friedrich Hayek (1960). *The Constitution of Liberty*.

In Ronald Hamowy (ed.), *The Constitution of Liberty*, XVII
(Liberty Fund Library, 2011): 221.

As we saw earlier, our modern prosperity springs from the use of the knowledge of millions of diverse individuals spread across the globe. This knowledge is typically very detailed, local, and quickly changing. No government can ever collect such knowledge and then properly digest and productively act upon it. The only practical way we know to ensure that as much of this knowledge as possible is discovered, properly digested, and productively acted upon is to rely upon millions of people each to discover a few “bits” of this knowledge and then, individually, to put each of those bits to use. By dividing among millions of people the task of discovering and acting upon knowledge, no one person is overwhelmed with having to absorb and use more knowledge than is humanly possible.

It is important to understand that without freedom, individuals are confined to behave only in ways permitted by government authorities. Unfree people, therefore, have less scope and ability than do free people to search for and to act upon such detailed and local knowledge.

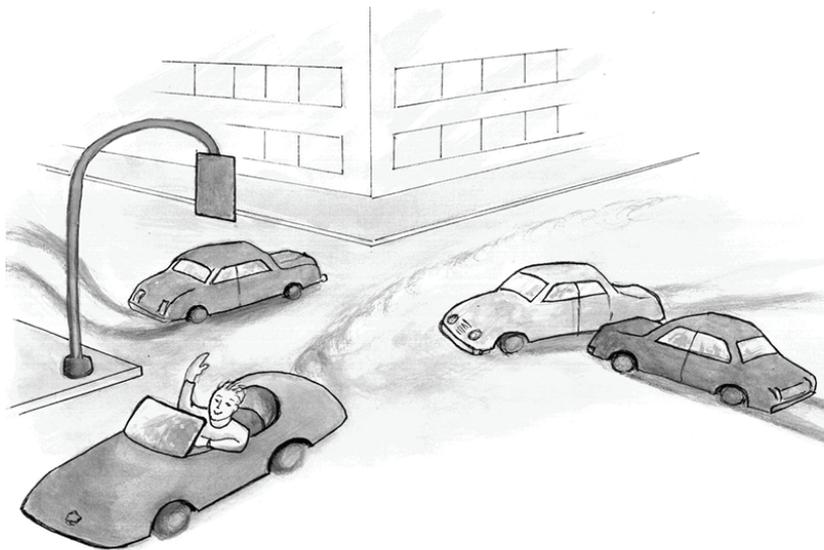
One important reason for dividing among millions of people the tasks of discovering and acting upon small bits of knowledge is that no central authority can know how to order these people about and know what they will discover. But how to ensure that free people—without being directed by some wise and all-knowing central authority—will actually find this knowledge and put it to productive use? How can we be sure that free people will not act selfishly in ways that further their own individual interests at the expense of the general welfare?

One part of the answer is that in fact we do expect people to behave in their own self-interest, but that that self-interested behaviour ends up working to everyone's benefit. In a market economy, producers want to become as wealthy as possible, but to do so they must compete against each other for consumers' patronage. This system rewards success at pleasing others (consumers) and punishes, with economic losses, the failure to do so. Another part of the answer, though, is the rule of law. The rule of law is a system of rules that are impartial and applied equally to everyone—even to government officials. If everyone is bound by the same rules, no one gets to bend those rules to his or her own advantage.

A rule is impartial if it is not formulated to achieve particular outcomes. An impartial rule only constrains people from acting in ways that are widely regarded as harmful. These are mostly "thou shalt not" rules rather than "you are hereby commanded" rules.

Rules of the highway are a good example. The rules of driving, such as speed limits and traffic lights, do not aim at directing drivers to particular locations. Specific destinations, as well as the particular routes that drivers use to travel to different destinations, are for each driver to decide. The rules of the road are not meant to determine where drivers go or how they get there. Instead, these rules are meant simply to give each driver maximum possible scope for getting to his destination, by whatever route he chooses, as safely and as reliably as possible while also ensuring the safety of all other drivers.

Supplying this assurance to each individual driver means holding every driver to the same rules. If some class of drivers (say, red-headed people) were free to ignore traffic lights, then the value of traffic lights to all other drivers would be greatly reduced. A driver approaching an intersection when the light in his lane is green would still have to slow down and look to ensure that no red-headed driver is barreling through the intersection. Traffic accidents would increase and traffic flow would slow down.



Holding all drivers impartially to the rules of the road results in every driver forming a reliable set of expectations about how other drivers will act. Every driver in North America expects all other drivers to drive on the right-hand side of the road. The result is that each driver can move faster because she is freed from the need to consciously be on guard against on-coming cars being driven in the left-hand lanes. The same is true for traffic lights, yield signs, stop signs, and the many other rules of the road that drivers routinely, and typically without thinking, obey. These rules of law-of-the-road direct every driver to act in conformity with every other driver's expectations.

Of course, the rules aren't perfect. Sometimes they are violated. And those violations every now and then result in traffic accidents. But the fact that drivers occasionally run red lights or drive on the wrong side of the road does not mean that the rule of law doesn't prevail on our streets and highways. If drivers are confident that the rules of the road will generally be obeyed, they won't hesitate to use their automobiles to travel to and fro in order to pursue their own individual goals.

But if drivers lose confidence that the rule of law will prevail on the road, then driving becomes a less useful mode of transportation. Red-headed drivers (as in my earlier example) who are entitled to run red lights might indeed arrive at their destinations sooner than they otherwise would, but the vast majority of people will find automobile driving to be less useful than it

would be if the rule of law were universally applied. People will drive less and encounter more difficulties en route. The erosion of the rule of the law on the roads will obstruct the ability of people to achieve as many travel goals as they would if the rule of law were fully enforced and applicable to everyone.

What's true of the rule of law on the roads is true of the rule of law more generally. When all people, including the highest government officials, are bound by the same general and impartial rules, every individual enjoys the greatest possible chances of achieving as many as possible of his own chosen ends. True equality reigns.

This equality is equality before the law. It does not guarantee equality of outcomes. But it does mean that no person's or group's interests are given extra weight or are singled out to be discounted. The result is that no person's or group's interests are sacrificed so that other persons or groups might enjoy special privileges. In this way a society is truly one of law and not of men.

The actual move toward greater and greater equality before the law over the past 200 or so years, in turn, reduced the role of "identities," such as accidents of birth, of skin colour, or of religious affiliation in determining a person's success or failure in life. Success or failure came more to be determined by character and merit—that is, by success or failure at cooperating on equal terms with other people, especially in producing useful goods and services for the market. The rule of law, therefore, plays a key role in securing not only our freedoms but also prosperity for as many individuals as possible.